

AMENDED STATEMENT OF THE QUESTION PRESENTED

Should this Court review or peremptorily reverse the Court of Appeals' published opinion affirming the denial of summary disposition of a claim alleging bad-faith failure to settle by Citizens, where Citizens' insured is insulated from pecuniary loss because of a release executed by the underlying plaintiff, given this Court's holding in *Frankenmuth v Keeley*, 433 Mich 525, 447 NW2d 691 (1989), *rev'd on reh'g*, 436 Mich 372 (1990), that a bad-faith failure to settle claim is based in contract and, thus, a plaintiff's recovery is limited to pecuniary loss suffered by or actually collectable from the insured?

Defendant-Appellant Citizens answers: "YES."

Plaintiffs-Appellees would answer: "NO."

The Court of Appeals would answer: "NO."

The trial court would answer: "NO."

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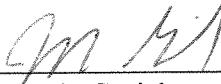
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CORBIN R. DAVIS
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by enclosing same in a pre-addressed, pre-stamped envelope and depositing same in the United States Mail.



Jeffrey C. Gerish

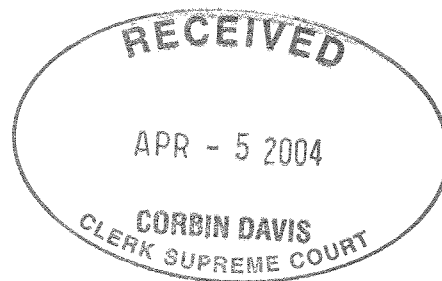
Subscribed and sworn to before me
this 2nd day of April, 2004

Notary Public, Oakland County, MI
My Commission Expires: 12/08/05

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April 2, 2004

Clerk of the Court
Michigan Supreme Court
925 W. Ottawa
P O Box 30052
Lansing, MI 48909



Re: *J&J Farmer Leasing v Citizens Ins Co*
Court of Appeals Docket No. 239069
Our File: 00392.65111

Dear Clerk:

Enclosed for filing please find defendant-appellant's amended statement of the question presented. This filing amends the statement of the question presented that is part of defendant's application for leave to appeal that was filed with the Court on March 25, 2004. Please note that the amendment does not alter the language of the question presented, but only the answers that the parties and lower courts would give. In its original statement, each of those answers are the opposite of what they should have been, due to oversight of counsel. An original and seven copies of the amended statement are enclosed. Also enclosed is a proof of service of the amended statement of the question presented on counsel for plaintiff, Robert Logeman.

Thank you for accepting this filing, and please contact me if you have any questions or concerns.

Sincerely,

A handwritten signature in dark ink, appearing to read "JCG".

Jeffrey C. Gerish
Direct Dial: (248) 901-4031
Email: jgerish@plunkettcooney.com

JCG/rym
Enclosure

c: Robert E. Logeman (w/enc)
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